

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CUMBERLAND PHARMACEUTICALS INC.      :
                                      :
                                Plaintiff, :      22 Civ. 0915 (VM)
                                      :
- against -                          :      ORDER
                                      :
MELINTA THERAPEUTICS, LLC, et al.,   :
                                      :
                                Defendants. :
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VICTOR MARRERO, United States District Judge.

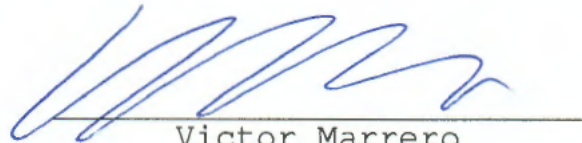
On April 6, 2022, consistent with the Court's Individual Practices, counsel for defendants Melinta Therapeutics, LLC and Targanta Therapeutics Corporation (collectively, "Melinta") sent counsel for Cumberland Pharmaceuticals Inc. ("Cumberland") a premotion letter identifying alleged deficiencies in the Complaint (Dkt. No. 1) that Cumberland filed in this action, and that allegedly would provide a basis supporting a motion to dismiss. (See Dkt. No. 14.) On April 13, also consistent with the Court's Individual Practices, counsel for Cumberland sent a three-page letter in response, opposing the grounds that Melinta stated in favor of the proposed motion. (See Dkt. 15.) On April 22, 2022 the Court received a letter from Melinta asserting that the letter exchange did not resolve the dispute and thus failed to avoid motion practice at this stage of the proceedings. (See Dkt. No. 17.) On June 24, 2022, the Court directed Melinta to file a motion to dismiss limited to three pages in length, (see Dkt. No. 19 ("June 24 Order")), which Melinta did on July 13, 2022. (See Dkt. No. 20.)

In light of recent Second Circuit opinions, the parties are directed to advise the Court whether they consent for the Court to deem the briefing as set forth in the June 24 Order as a fully briefed

motion and rule on the basis of the limited briefs, or whether the parties request supplemental or full briefing on Melinta's motion. If the parties request supplemental or full briefing, they shall submit a proposed briefing schedule within one week of the date of this order.

SO ORDERED.

Dated: New York, New York
August 9, 2022



Victor Marrero
U.S.D.J.